

**BEFORE THE ALABAMA DEPARTMENT
OF REHABILITATION SERVICES**

IN RE: THE MATTER OF CALVIN SCOTT

**A Full and Evidentiary Hearing Pursuant to the Randolph-
Sheppard Vending Act 20 U.S.C. 107, et seq.**

VOLUME II

[Pages 76 to 150]

FREEDOM COURT REPORTING

76

1 Scott is Exhibit 8.

2 MS. SCOTT: Okay. Okay.

3 HEARING OFFICER: Have I got
4 them all?

5 MS. SCOTT: Yeah.

6 HEARING OFFICER: All right.

7 Now, Mr. Scott, do you wish to offer
8 any other evidence?

9 MR. SCOTT: I wish to offer a
10 statement.

11 HEARING OFFICER: Okay. Let's
12 swear Mr. Scott in.

13 CALVIN SCOTT

14 The witness, having been first
15 duly sworn or affirmed to speak the truth,
16 the whole truth, and nothing but the
17 truth, testified as follows:

18 HEARING OFFICER: All right.

19 Now, Mr. Scott, normally we ask
20 witnesses to -- to testify in the
21 form of a question and answer. But
22 you are -- you are without a lawyer.

23 By the way, did you-all try to get a

FREEDOM COURT REPORTING

1 lawyer to --

77

2 MS. SCOTT: This is why it took

3 us so long to file this lawsuit.

4 Nobody seemed to want to go to fight
5 against the State. A lot of them say
6 they don't take discrimination cases.

7 This is why it had taken us so long
8 to file the lawsuit.

9 HEARING OFFICER: All right.

10 Now, I'm addressing Mr. Scott now.

15 MR. SCOTT: Oh, yes, I do.

16 HEARING OFFICER: All right. Go
17 right ahead with your narrative
18 testimony.

19 MR. SCOTT: See, first of all,
20 too -- now, they're saying that my
21 wife is not to help me in any aspects
22 of -- of my work. Now, see, when
23 they wrote all of these letters to me

FREEDOM COURT REPORTING

1 whether they were Fed Ex'd or not, I
2 was supposed to have gotten a Braille
3 copy of everything that they wrote.
4 Okay.

5 HEARING OFFICER: Why do you say
6 that?

12 HEARING OFFICER: Okay.

FREEDOM COURT REPORTING

79

1 requests. The removal of that
2 machine from the little back room
3 from the restaurant out in the hall
4 where the people could see it to use
5 it, a swipe key to get into that
6 machine on the fourth floor on Monroe
7 and Ripley and a place to park,
8 because they have many -- there have
9 been many days that we came down
10 there with stock that we could not
11 get to that porch to put out our
12 stock, plus had nowhere to park. We
13 would sit down there for almost hours
14 at a time driving around the block
15 waiting to get back into the building
16 and we couldn't do it.

17 MS. SCOTT: Calvin, do you want
18 to give him this letter?

19 HEARING OFFICER: Let's let him
20 finish testifying first.

21 MR. SCOTT: And, see, these
22 people instead of being my advocates
23 have been my adversaries along with

FREEDOM COURT REPORTING

1 James Swearengin. And that's a fact.
2 And, see, when we -- from way back in
3 this program, they never tried to
4 work things right in my favor but
5 instead with James Swearengin. And,
6 see, they know that if my wife don't
7 work with me, which is a fact, you
8 know, I'm not going to work in this
9 program because I'm not going to work
10 without her.

11 Number one, my wife sees to it
12 that my job goes right every day that
13 we work. My wife quit her job to
14 work with me in order for my business
15 to go right because the monies that I
16 would make would not be able to pay
17 nobody to work with me all day long
18 and bring monies home. The people
19 ain't going to work with you for
20 nothing. Now, that's just it.

21 HEARING OFFICER: Anything
22 further, Mr. Scott?

23 MS. SCOTT: Do you want to give

FREEDOM COURT REPORTING

81

1 him that letter?

2 MR. SCOTT: Give him that.

3 MS. SCOTT: He wants to present
4 this letter from a problem we had
5 when we asked James Swearengin for a
6 parking place and he asked for us to
7 move because I wrote him a letter
8 when we brought God into it.

9 HEARING OFFICER: All right.

10 What I have been presented is a
11 memorandum dated February 2nd, 1996
12 from James Swearengin, Jr., to Ken
13 Green. Subject, parking problem.

14 MR. SIMPSON: I'm familiar with
15 the content of the letter, Your
16 Honor, and we'd object to the
17 relevance to Mr. Scott's complaints
18 at that time. The correspondence
19 arose nearly ten years ago.

20 MS. SCOTT: Well, that's not the
21 first time he asked us to move.
22 That's why I brought it in. It shows
23 that every time we have a request, we

FREEDOM COURT REPORTING

1 can't go to him. It doesn't cost him
2 anything, and he's always rude and
3 evil to us. That's why I presented
4 the letter because it had been times
5 that we --

6 HEARING OFFICER: I'm going to
7 admit the letter.

8 MS. SCOTT: Thank you.

9 MR. SCOTT: Thank you. Thank
10 you so much.

11 HEARING OFFICER: Noting that
12 there is attached to it a letter from
13 Ms. Gladys Scott to Mr. James
14 Swearengin dated January 28th,
15 1997 -- '96. So I'll admit this as
16 Exhibit 21.

17 Anything further, Mr. Scott?

18 MS. SCOTT: Yes. These letters
19 are where we wrote people in order to
20 get back to work. The agency done
21 nothing but no more than keep trying
22 to push us out. We would like to --

23 HEARING OFFICER: Let's see what

FREEDOM COURT REPORTING

83

1 you have there.

2 MS. SCOTT: It's evidence.

3 HEARING OFFICER: All right.

4 What we have here is a -- let me --

5 what we have here is an undated

6 letter to President George Bush from

7 Calvin Scott, Sr. We have a February

8 10th, 2005 letter to Governor Bob

9 Riley from Calvin Scott, Sr. We have

10 a February 10, 2005 letter to Senator

11 Mike Rogers from Calvin Scott, Sr.

12 There is a February 3rd, 2005 letter

13 to the U. S. Department of Education

14 Office for Civil Rights from Calvin

15 Scott, Sr. It looks like another

16 undated letter to President George

17 Bush from Calvin Scott, Sr., and a

18 fax, a two page fax correspondence

19 dated 10/2/2005 from Calvin Scott,

20 Sr., to Thad McClammy.

21 MS. SCOTT: And we also have

22 correspondence and a letter where we

23 wrote the government, some letters

FREEDOM COURT REPORTING

84

1 that they -- some response from them.

2 HEARING OFFICER: And we also
3 have a March 1, 2005 letter from --
4 to Mr. Calvin Scott from Cecilia
5 Boyer, special assistant to the Vice
6 President for correspondence. And we
7 have a February 11, 2005 letter to
8 Mr. Calvin Scott, Sr., from Heide
9 Barkez, special assistant to the
10 President and director of
11 Presidential Correspondence. And we
12 have a March 29, 2005 letter from
13 Mr. Harold M. Bush, the director of
14 the Division of Program Operations,
15 U. S. Department of Labor Employment
16 Standards Administration, Office of
17 Federal Contract Compliance Program
18 to Mr. Calvin Scott, Sr.

19 MS. SCOTT: I've also got a
20 letter here that I wrote Jim Maine,
21 the director of finance asking for
22 his --

23 HEARING OFFICER: Do you want to

FREEDOM COURT REPORTING

85

1 add that to that collective exhibit?

2 MS. SCOTT: Yeah. I'm going to
3 see can I find it. It's supposed to
4 be in this envelope with this stuff.
5 I don't see it. I know I've got it
6 here somewhere.

7 HEARING OFFICER: Do you want
8 this to be a collective Exhibit 22?

9 MS. SCOTT: Yeah. Whatever.
10 You know, I'm not a lawyer, but it's
11 evidence. It proves how we got back
12 to work and all. Jim Maine gave us a
13 response to it from Hornsby.

14 HEARING OFFICER: Is there any
15 objection?

16 MR. SIMPSON: No.

17 HEARING OFFICER: These will be
18 admitted as Exhibit 22. And when you
19 find the other letter, we'll attach
20 that to the exhibit, too.

21 MS. SCOTT: Let me see if it's
22 in here.

23 HEARING OFFICER: You can look

FREEDOM COURT REPORTING

86

1 for it during a break, but let's just
2 move on right now.

3 MS. SCOTT: All right. All
4 right.

5 HEARING OFFICER: Now, is there
6 any other evidence to come from
7 Mr. Scott?

8 MR. SCOTT: No other evidence
9 right now.

10 HEARING OFFICER: All right. I
11 take it that you want to rest and
12 require the Alabama Department of
13 Rehabilitation Services to present
14 their evidence?

15 MR. SCOTT: Go ahead.

16 HEARING OFFICER: All right.
17 Mr. Simpson.

18 MR. SIMPSON: First I'd call
19 Mr. Scott. You were -- throughout
20 the preliminary presentation of the
21 information, the Department had not
22 invoked the rule knowing that
23 Mr. Scott might need the assistance

FREEDOM COURT REPORTING

87

1 of his wife. But there's some
2 evidence that we think credibility of
3 the witnesses would be best served if
4 Ms. Scott was excluded while we
5 examined -- cross-examined Mr. Scott.

6 HEARING OFFICER: Yeah.

7 Actually, we don't want to rest you
8 yet. You want to give -- you want to
9 have the opportunity to cross-examine
10 him and then he will have the
11 opportunity to come back with his
12 redirect evidence. So we'll withdraw
13 that.

14 MS. SCOTT: May I say something
15 else?

16 HEARING OFFICER: Well,
17 Mr. Scott is -- you know, it's
18 Mr. Scott here that we're having the
19 evidentiary hearing for.

20 MS. SCOTT: Yeah.

21 HEARING OFFICER: And I
22 recognize who you are, Ms. Scott.

23 MR. SCOTT: She has power of

FREEDOM COURT REPORTING

88

1 attorney.

2 HEARING OFFICER: What do you
3 want to say, Ms. Scott?

4 MS. SCOTT: I would like to say
5 the reason why Swearengin want me out
6 of the building, it used to be in the
7 rule book that nobody come in that
8 building selling anything that is
9 vendible. The restaurant not sell
10 candy, chips, pastry, anything that's
11 vendible. And when I see this going
12 on, I tell Calvin. Calvin get on the
13 phone and call his representative,
14 Ken Green. Then Ken in turn called
15 the building manager, Swearengin.
16 Then he's got to get up and go and
17 see about getting these people out of
18 the building. There's nothing else I
19 ever done around there that he
20 wouldn't want me around and not like
21 me. We ain't done nothing but good
22 work and gave him respect. Never had
23 no run-in problem, no arguments with

FREEDOM COURT REPORTING

1 him. But that's one of the reasons I
2 feel that he want me out of the
3 building because I tell Calvin about
4 the laws being broken.

5 HEARING OFFICER: All right.

6 Now, we'd like to just ask you to be
7 excused for a little while from this
8 session. We'll call you back a
9 little bit later. And if you would
10 like, you can take the documents that
11 you have with you and search for the
12 other documents that you want to
13 attach as Exhibit 22.

14 MS. SCOTT: Okay. Are you
15 allowed to -- you got this letter?
16 Yeah. You got it. All right. Okay.
17 I'll get everything together.

18 HEARING OFFICER: We'll call you
19 back in when we're ready for you to
20 come back.

21 MS. SCOTT: Okay.

22 (Ms. Gladys Scott left the
23 conference room.)

FREEDOM COURT REPORTING

90

1 CALVIN SCOTT

2 having been previously sworn,
3 testified as follows:

4 CROSS-EXAMINATION

5 BY MR. SIMPSON:

6 Q. Mr. Scott --

7 A. Uh-huh.

8 Q. -- how much money do you make
9 in a year's time by operating the Gordon
10 Persons Building facility?

11 A. It varies.

12 Q. Last year?

13 A. Really I can't remember
14 because my wife keeps all my records.
15 That's why I don't see why y'all let her
16 go out. She handles all the records, all
17 the money. But first of all, for us
18 stating what you did about my income, my
19 net income has never been fifty thousand
20 dollars.

21 Q. What has it been?

22 A. Oh, it wasn't that much. My
23 wife keep all -- keeps all of my records.

FREEDOM COURT REPORTING

91

1 HEARING OFFICER: Do you know
2 what it's been? Can you give us a
3 range?

4 THE WITNESS: Oh, we -- we
5 have -- I have made up -- maybe after
6 all deductions, there were times that
7 actually I made no more than ten
8 thousand dollars. There were several
9 times that I made maybe somewhere
10 near twenty something thousand
11 dollars. In other words, really I --
12 actually as far as what I made, I --
13 my wife can answer you that better --

14 HEARING OFFICER: Okay.

15 THE WITNESS: -- than I can.

16 I'm going to be honest with you about
17 it.

18 Q. The only way, Mr. Scott --
19 and tell me if I'm wrong -- the only way
20 that you know how much your business
21 brings in in income is through your wife?

22 A. She handles all of my
23 business.

FREEDOM COURT REPORTING

92

1 Q. You don't have any other
2 person assisting you?

3 A. No, sir. And will not.

4 Q. And do you recall at the
5 motion to dismiss hearing in federal court
6 having a long visit with Ms. Margaret
7 Fleming and myself?

8 A. Yes, I do.

9 Q. And do you remember me asking
10 you about your income at that meeting
11 about three weeks ago? Do you remember
12 telling me that you had never made more
13 than twenty-five thousand dollars in any
14 one year from the Gordon Persons Building
15 facility? Do you remember saying that to
16 me?

17 A. Twenty-five thousand dollars?

18 Q. Yes, sir.

19 A. Well, anyway, it hasn't -- if
20 I have, it hasn't been that -- if it was,
21 it wasn't that much over.

22 Q. Wasn't that much over. So
23 it's your belief based on --

FREEDOM COURT REPORTING

93

1 A. My net income, yes.

2 Q. It's your belief based on
3 what your wife has told you that you --

4 A. No. It's on record. It
5 ain't what she told me either. It's on
6 record.

7 Q. Okay.

8 A. It's on paper.

9 Q. And so --

10 A. See, she -- hold up. Let me
11 say this.

12 Q. You say --

13 A. She do not lie about my --
14 about my -- my records.

15 Q. Okay.

16 A. We do not lie about our
17 records. You can check everything that we
18 have according to my records.

19 HEARING OFFICER: Nobody is
20 accusing anyone of lying. No one is
21 accusing anyone of lying.

22 THE WITNESS: Well, I just had
23 to get that clear.

FREEDOM COURT REPORTING

94

1 HEARING OFFICER: Well, we need
2 you to be responsive to the
3 questions. If you're not being
4 responsive, we might be here several
5 days longer than we need to be.

6 Q. Your visual impairment
7 doesn't allow you to see documents; am I
8 correct?

9 A. No. I'm totally blind.

10 Q. Totally blind. So the
11 documents that have to be filed with the
12 Business Enterprise Program reflecting
13 what your monthly sales and monthly income
14 are, you can't see the numbers that are
15 put on those documents?

16 A. No. Naturally I couldn't.

17 Q. All right. So someone has to
18 tell you what those numbers are before you
19 have any knowledge of them; am I right?

20 A. Sure.

21 Q. And that's always been your
22 wife?

23 A. Sure it has. Will always be.

FREEDOM COURT REPORTING

95

1 Q. And it's your belief that
2 you've never earned more than twenty-five
3 thousand dollars in any one year at the
4 Gordon Persons Building; is that correct?

5 A. Not much more over. We just
6 gave kind of an average. I don't know.
7 You know, but it has never been no fifty
8 thousand dollars.

9 Q. All right. Did anyone else,
10 any other blind vendor go into your
11 machines, the machines provided for you by
12 the Business Enterprise Program at the
13 Gordon Persons Building, and sell things
14 out of them during February or March of
15 this year?

16 A. Unh-unh. No.

17 Q. Nobody else took over your
18 facility?

19 A. No, they didn't.

20 Q. Everything that was sold
21 through those machines was through your
22 business?

23 A. To say.

FREEDOM COURT REPORTING

96

1 Q. Am I correct?

2 A. To say, yes.

3 Q. Everything that was sold
4 through those machines was through your
5 business. No one else made money through
6 those machines but you; is that correct?

7 A. Sure.

8 Q. Okay.

9 A. You said that to say what?

10 HEARING OFFICER: Well, this is
11 the time for him to ask questions and
12 you to answer questions.

13 THE WITNESS: Okay. All right.
14 Excuse me, sir.

15 HEARING OFFICER: That's all
16 right.

17 MR. SIMPSON: Ms. Fleming may
18 have a number of questions for you,
19 Mr. Scott. That's all I have right
20 now.

21 THE WITNESS: Okay.

22 CROSS-EXAMINATION

23 BY MS. FLEMING:

FREEDOM COURT REPORTING

97

1 Q. Mr. Scott, you remember me.

2 I'm Margaret Fleming.

3 A. Oh, I remember.

4 Q. We visited for a while a few
5 weeks ago after the hearing in federal
6 court. And you'll recall that I
7 represent --

8 A. James Swarengin.

9 Q. -- Mr. James Buddy
10 Swarengin. Let me ask you, Mr. Scott --

11 A. Uh-huh.

12 Q. -- do you have any evidence
13 of any kind? Do you know of any witnesses
14 or do you have any -- know of any
15 documents that would indicate that James
16 Buddy Swarengin has a problem with you or
17 has treated you differently because of
18 your race?

19 A. Do I have any documents?

20 Q. Yes, sir.

21 A. No, I don't have any
22 documents, per se, except the letters that
23 was given to you-all that he wrote Ken

FREEDOM COURT REPORTING

98

1 Green, blah, blah, blah.

2 Q. Right. In those letters he
3 doesn't mention your race; is that
4 correct?

5 A. No. He did not mention my
6 race.

7 Q. All right. Do you know of
8 any witnesses who have told you that
9 Mr. -- has anyone ever told you that
10 Mr. Swearengin has a prejudice or has
11 discriminated against you because of your
12 race?

13 A. No, I haven't.

14 Q. To your knowledge, has
15 Mr. Swearengin ever mentioned your race to
16 anyone?

17 A. No. I don't know.

18 Q. Is it your understanding that
19 the -- and I think your wife talked
20 earlier. I'm not sure if it was under
21 oath. But she mentioned an incident that
22 occurred at the racetrack having to do
23 with Mr. Swearengin's son, James

FREEDOM COURT REPORTING

1 Swearengin, III. Do you recall that
2 testimony or that conversation that your
3 wife just had with us here?

4 A. Yes. She told me about it
5 when she came home from the track that
6 Saturday night.

7 Q. Is it your belief that the
8 problems that arose with Mr. Swearengin
9 had to do with the incident at the dog
10 track between your wife and
11 Mr. Swearengin's son, James Swearengin,
12 III?

13 A. Well, I can't say
14 specifically, but something did. That's
15 all I can say.

16 Q. Other than that incident, do
17 you know of anything that would have
18 caused Mr. James Swearengin to change his
19 behavior towards you in February of 2005?

20 A. Well, he -- first of all, let
21 me say this. I'm going to answer your
22 question. But now, first of all, when we
23 started working in that building, I didn't

FREEDOM COURT REPORTING

1 know James Swearengin until January of
2 1996 when we had trouble out of Fred
3 Morris. Now, as far as --

4 Q. But --

5 A. Go ahead.

6 Q. And I'm sorry. I'm trying to
7 make this as short as I can. So I'm going
8 to ask you some fairly direct questions,
9 and I need you to try to respond as best
10 you can to those. And you may not know.
11 And if you don't know, please tell me you
12 don't know. But your wife apparently is
13 of the opinion that the treatment that you
14 received in February 2005, the card key
15 being changed and some other things were
16 as a result of an incident that occurred
17 at the dog track between your wife and
18 James Swearengin's son, James Swearengin,
19 III. Your wife has said that's her
20 opinion. Do you share that opinion, or do
21 you know?

22 A. Yes, I do.

23 Q. You do share her opinion?

FREEDOM COURT REPORTING

1 A. I do share her opinion. Yes,
2 I do.

3 Q. Now, other than the dog track
4 incident, do you know of any other thing
5 that has happened that would cause James
6 Swearengin to treat you any differently?

7 A. Other than he -- see, other
8 than that letter, he got mad when my wife
9 had to straighten him out about having
10 respect of person when she wrote him that
11 letter that you already have there in your
12 stuff.

13 Q. The 1996 letter?

14 A. Yes.

15 Q. Okay. Other than the 1996
16 letter and the incident at the dog track
17 in January 2005, do you know of anything
18 that would have caused James Swearengin to
19 change his behavior towards you?

20 A. No, I don't.

21 Q. And you don't have the -- you
22 have no evidence. You have not been told
23 anything else about Mr. Swearengin?

101

FREEDOM COURT REPORTING

102

1 A. No. Nobody told me nothing
2 about Mr. Swearengin.

3 Q. Okay.

4 A. Told her either. We don't
5 discuss him with anybody. We get up there
6 and do our work, and that's it.

7 HEARING OFFICER: Okay. We just
8 need you to be responsive to the
9 question.

10 Q. There was -- you mentioned
11 Fred Morris, the security guard. And in
12 your opening statement you made a
13 statement that you had not threatened him
14 with bodily harm; is that correct?

15 A. That's correct.

16 Q. Has Fred Morris said to
17 someone that you threatened him with
18 bodily harm?

19 A. He must have said something
20 to James Swearengin.

21 Q. Okay.

22 A. Because I haven't said
23 nothing to him about threatening him with

FREEDOM COURT REPORTING

103

1 no bodily harm. I just told him I was
2 going to get him fired.

3 Q. You told Fred Morris --

4 A. Fred Morris, yes.

5 Q. -- that you would get him
6 fired?

7 A. Yes, I did.

8 Q. Why did you tell him that?

9 A. Because of the way he
10 responded to my wife.

11 Q. And tell me about that.

12 A. When my wife -- when we got
13 in that dock, my wife -- he -- he was
14 trying to direct my wife in an area. She
15 can tell you more about it than I can,
16 because I don't see it. But --

17 Q. Excuse me.

18 A. Let me finish.

19 Q. Excuse me. Let me just
20 provide some background. This has to do
21 with the loading dock there --

22 A. Yes.

23 Q. -- at the Gordon Persons

FREEDOM COURT REPORTING

104

1 Building?

2 A. That's correct.

3 Q. And when did this take place?

4 A. I can't -- I can't give you
5 the exact date of it now.

6 Q. What year?

7 A. Huh?

8 Q. What year?

9 A. Back in '96.

10 Q. Okay. Tell me about it.

11 A. Well, anyway, when we came in
12 there, he -- Fred Morris got all rowed up
13 about my wife parking and he told her to
14 park one way and she was not going to take
15 that chance to try to cause an accident
16 between the car and the truck. And he
17 jumped up on that porch and started
18 cursing at her and telling her, When I
19 tell you to do this stuff, blah, blah,
20 blah, blah, blah. See, number one, I did
21 not appreciate him -- see, let me put it
22 this way. This is sort of the whole deal.
23 I guarantee you if I had been able to see,

FREEDOM COURT REPORTING

105

1 that man would not have done that. No.
2 No. No. No. See, he thought he had
3 the advantage of me doing this. And, see,
4 that has happened to me with a lot of
5 people. That's just it. And I'm not --
6 you see, and from what I said to him, had
7 that been Buddy Swearengin, that man
8 wouldn't have had a job nowhere, at no
9 bank or nowhere else being a security
10 guard. No. And I only spoke up right in
11 behalf of my wife and how he treated her.
12 And I would do that not only with him but
13 with anybody.

14 Q. Yes, sir. Now --

15 A. Yes, ma'am.

16 Q. Now, let me ask you. This
17 1996 incident that you had with the
18 security guard, Fred Morris, is that the
19 only confrontation you have ever had with
20 Fred Morris, or have you had similar
21 confrontations?

22 A. Well, that -- see, after that
23 -- after that, however he left, he left

FREEDOM COURT REPORTING

106

1 and never came back. Never came back.

2 Q. Okay. So since 1996, Fred
3 Morris has not been at the building?

4 A. No. No.

5 Q. Okay. In the letter that
6 James Swearengin wrote to Kenneth Green,
7 there is a statement in the letter that
8 says there have been incidents when the
9 Scotts have threatened to bring a gun and
10 shoot personnel?

11 A. Uh-huh. Yeah. He --

12 Q. Has there ever been a chance
13 when you or your wife had threatened to
14 shoot anyone?

15 A. No way. No way, Ms. Fleming.
16 No way. That's a lie.

17 Q. At least not that you were a
18 party to?

19 A. Neither one of us.

20 Q. Okay. But you can't --

21 A. No, ma'am.

22 Q. But you can't testify about
23 what your wife did when you weren't

FREEDOM COURT REPORTING

107

1 present with her?

2 A. No. But, now, see, I know
3 one thing. I do know this. She ain't
4 going to come up and tell me no lie. I
5 have that much confidence in her. Not
6 about something like that. No, ma'am.

7 Q. But you were never present
8 when your wife threatened to bring a gun?

9 A. She ain't never threatened to
10 bring a gun in no building. I ain't going
11 to let you hang that on me. No, sir. No,
12 ma'am. No, ma'am. And he's a lie to his
13 grave.

14 Q. Has your wife ever owned a
15 gun?

16 A. Yeah. We've got a gun.

17 Q. Has she ever fired a gun?

18 A. I don't know whether she's
19 fired it, per se, other than checking it
20 to see if it worked.

21 Q. To your knowledge --

22 A. But there had been no gun in
23 that building for her -- for them to tell

FREEDOM COURT REPORTING

108

1 a lie about. No.

2 Q. To your knowledge, has your
3 wife ever fired at anyone with a gun?

4 A. No. Hell no. Excuse me.

5 MS. FLEMING: Okay. That's all
6 I have.

7 MR. SIMPSON: I have one other
8 question, Your Honor.

9 HEARING OFFICER: Well, let's go
10 back to Mr. Scott at this time and
11 see if he has anything that he wants
12 to testify to in the way of a
13 narrative.

14 THE WITNESS: Well, I basically
15 put forth all of my saying. It's
16 just the fact that, you know, we need
17 to come to some kind of a conclusion.
18 Because I'll be honest with you, you
19 know, I'm going through these
20 hearings as I was told to do by the
21 lawyer before we go to court.

22 HEARING OFFICER: I understand.
23 All right. Now, Mr. Simpson.

FREEDOM COURT REPORTING

109

1 RECROSS-EXAMINATION

2 BY MR. SIMPSON:

3 Q. Mr. Scott --

4 A. Uh-huh.

5 Q. -- with regard to the
6 documents being sent to you from the
7 Business Enterprise Program that were not
8 in Braille, you received the documents and
9 someone read them to you, I assume; is
10 that correct?

11 A. You know that's correct.

12 Well, yes. I won't -- yes. I won't be
13 that stupid. Yes, it was.

14 Q. Did you ever make a request
15 to -- let me --

16 A. Let me explain to you. I
17 know what you're trying to ask me.

18 HEARING OFFICER: Wait. Wait.
19 Wait. No. No. Just answer his
20 question, if you can.

21 THE WITNESS: Okay.

22 Q. And let me state it real
23 clear. You're not saying here today that

FREEDOM COURT REPORTING

1 you didn't receive correspondence from the
2 Alabama Department of Rehabilitation
3 Services or that we hid things from you on
4 purpose; is that -- is that correct?

5 A. I am saying this. Do you
6 want me to answer it?

7 Q. Sure.

8 A. Okay. I am saying this.
9 From way back years ago, I requested that
10 everything that was sent to me from the
11 Business Enterprise Program for the blind
12 regardless to what it may have been was to
13 be sent to me in Braille so that I could
14 put my hands on it and read it for myself.

15 Q. And not all the
16 correspondence has been sent to you,
17 correct?

18 A. No. No. No.

19 Q. Did you -- you said years
20 ago?

21 A. Yeah.

22 Q. Did you request that any of
23 these particular letters that you received

FREEDOM COURT REPORTING

1 be Brailled for you?

111

2 A. I didn't tell them, per se,
3 but they had it on record that I wanted
4 everything that they sent me to be sent to
5 me in Braille. That's it.

6 MR. SIMPSON: You've answered my
7 questions, Mr. Scott. Thank you.

8 THE WITNESS: Uh-huh.

9 HEARING OFFICER: Ms. Fleming,
10 do you have anything further?

11 MS. FLEMING: No.

12 HEARING OFFICER: Mr. Scott, do
13 you have anything further?

14 MR. SCOTT: I'm all right. I'm
15 fine.

16 HEARING OFFICER: All right.

17 Are we ready to have Ms. Scott come
18 back in?

19 MR. SIMPSON: Sure.

20 (Ms. Gladys Scott
21 re-entered the conference
22 room.)

23 HEARING OFFICER: Next witness?

FREEDOM COURT REPORTING

112

1 MR. SIMPSON: I think we rested
2 them and unrested them.

3 HEARING OFFICER: Oh, they have.
4 That's right. Now, let me ask you.

5 Do you have any further testimony,
6 any further evidence, any exhibits,
7 Mr. Scott?

8 MR. SCOTT: We don't have
9 anything else.

10 MS. SCOTT: Yes. He told me I
11 could find it when I went out.

12 HEARING OFFICER: Do you want to
13 give me that other letter that you
14 want to attach to Exhibit 22,
15 Ms. Scott?

16 MS. SCOTT: Uh-huh. This is the
17 letter that we wrote to --

18 HEARING OFFICER: Why don't you
19 give it to me and I'll identify it
20 for the record.

21 MS. SCOTT: Okay. Let me make
22 sure I've got that. Okay.

23 HEARING OFFICER: All right.

FREEDOM COURT REPORTING

1 This is a February 17, 2005 letter to
2 Mr. James Alan Maine, Director of
3 Finance and Internal Affairs of the
4 State of Alabama, I assume. And this
5 is from Mr. Calvin Scott, Sr. And
6 this is a copy of a February 18, 2005
7 letter from Mr. -- to Mr. Calvin
8 Scott, Sr., from Annie Hornsby,
9 assistant finance director. Is there
10 any objection to including these two
11 letters as part of Exhibit 22?

12 MR. SIMPSON: No.

17 MS. SCOTT: Yes. Uh-huh.

18 That's it. That's it. That's it. I
19 think that's it.

20 HEARING OFFICER: February 25,
21 2005 letter to Mr. or Ms. -- I can't
22 tell -- Searcy Rushing from Calvin
23 Scott, Sr. February 28, 2005 to

FREEDOM COURT REPORTING

114

1 Searcy Rushing from Calvin Scott,
2 Sr., and a February 25, 2005 letter
3 to Calvin Scott from Searcy Rushing.

4 MR. SIMPSON: I don't have any
5 objection.

6 HEARING OFFICER: These will be
7 received as part of the Exhibit 22.

8 Mr. Scott, do you have any further
9 evidence, any testimony, any
10 exhibits?

11 MR. SCOTT: I don't have
12 anything else.

13 HEARING OFFICER: All right.

14 Now we will go to the Alabama
15 Department of Rehabilitation
16 Services.

17 MR. SIMPSON: Would you mind if
18 we took just a moment for a bathroom
19 break?

20 HEARING OFFICER: We have been
21 at it for a while. Why don't we take
22 a momentary break at this time, a
23 five minute bathroom break.

FREEDOM COURT REPORTING

115

1 (Brief recess)

2 HEARING OFFICER: Why we won't
3 break for lunch at this time and then
4 we will resume at a quarter to one.

5 We're adjourned until
6 twelve forty-five.

7 (Lunch recess)

8 HEARING OFFICER: Okay.

9 Mr. Simpson, are you ready to
10 proceed?

11 MR. SIMPSON: Yes. In the
12 cross-examination of Ms. Scott or
13 call her as a witness would be our
14 first. And I believe she's already
15 been sworn.

16 HEARING OFFICER: And you're
17 still under oath, Ms. Scott. He
18 wants to ask you some questions.

19 GLADYS SCOTT

20 having been previously sworn,
21 testified as follows:

22 CROSS-EXAMINATION

23 BY MR. SIMPSON:

FREEDOM COURT REPORTING

116

1 Q. Ms. Scott, in complying with
2 the rules of the Business Enterprise
3 Program, there's a form called a BEP-1E.
4 Are you familiar with that monthly sales
5 report form?

6 A. Yes.

7 Q. Are you the person that fills
8 out that form --

9 A. Yes.

10 Q. -- in connection with the
11 facility at the Gordon Persons Building?

12 A. Yes.

13 Q. And on that form do you
14 accurately report the sales and the net
15 profits for the vendor, for your husband's
16 business?

17 A. See, what's on that report is
18 vending, total vending sales. We report
19 that. And we report what it costs him
20 to -- the cost is reported on there. And
21 that's how it comes on down to an amount,
22 eleven percent of what he pays on what his
23 income is. So that's at the very

FREEDOM COURT REPORTING

117
1 beginning on the form. I don't have a
2 form here with me.

3 Q. But my question is -- my
4 question is when you fill those forms out,
5 they're accurate?

6 A. Yes. I try.

7 Q. They are correct?

8 A. Uh-huh. Yes. That's right.
9 When all this -- we do a report every
10 week.

11 HEARING OFFICER: I think you've
12 answered his question.

13 THE WITNESS: Okay.

14 MR. SIMPSON: That's all I have
15 of this witness. My next witness is
16 Mr. Ken Green. And I'll have to just
17 step outside and get him.

18 HEARING OFFICER: Well, let me
19 just see if Mr. Scott has any.

20 MR. SCOTT: No.

21 HEARING OFFICER: Ms. Fleming,
22 do you have some questions?

23 MS. FLEMING: Simply to avoid

FREEDOM COURT REPORTING

118
1 repetition, I would ask Ms. Scott
2 some.

CROSS-EXAMINATION

4 BY MS. FLEMING:

5 Q. Earlier during this
6 proceeding you made a rather lengthy
7 opening statement and then at some point
8 the hearing officer swore you in. The
9 statements that you made earlier on were
10 not sworn to, but I would just simply ask
11 you to affirm for us now, has everything
12 that you have said here today been the
13 truth?

14 A. Yes.

15 MS. FLEMING: Thank you.

16 HEARING OFFICER: Now,
17 Mr. Scott, do you have any questions
18 for your wife?

19 MR. SCOTT: Any questions for
20 her?

21 HEARING OFFICER: Correct.
22 That's my question to you.

23 MR. SCOTT: No, I don't.

FREEDOM COURT REPORTING

119

1 HEARING OFFICER: All right.

2 Next witness.

3 MR. SIMPSON: Yes. I'll be
4 right back.

5 (Brief recess)

6 MR. SIMPSON: This is Ray
7 Dennis.

8 HEARING OFFICER: Ray Dennis is
9 the next one. And you can stay where
10 you are, Mr. Dennis. If you'll just
11 raise your right hand to be sworn.

12 RAY DENNIS

13 The witness, having been first
14 duly sworn or affirmed to speak the truth,
15 the whole truth, and nothing but the
16 truth, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SIMPSON:

19 Q. Tell us your name, please.

20 A. Ray Dennis.

21 Q. And what do you do for a
22 living, Mr. Dennis?

23 A. I'm the program director for

FREEDOM COURT REPORTING

1 the Business Enterprise Program for the
2 Blind, Department of Rehabilitation
3 Services.

4 Q. And how long have you been
5 the program director?

6 A. June '97.

7 Q. And what does the program
8 director of the Business Enterprise
9 Program do?

15 Q. In early February of 2005,
16 you were serving as director of the
17 Business Enterprise Program?

18 A. Yes, sir.

19 Q. Did a problem with the
20 operation of the facility that Mr. Scott
21 is assigned to, the Gordon Persons
22 Building, arise early in February?

23 A. Yes.

FREEDOM COURT REPORTING

121

1 Q. What problem?
2 A. The problem as described to
3 me by Mr. and Ms. Scott and the program
4 representative Ken Green was -- was
5 centered around customer relationships,
6 difficulties with refunds, access to
7 secured areas that the building manager
8 had said that State statute had provided
9 him to secure certain areas of the
10 building. I think Department of Revenue
11 has been mentioned earlier. And he -- he
12 said, I want another vendor. I want the
13 Scotts out of here.

14 Q. Who is that he?

15 A. James Swearengin.

16 Q. Had you had dealings with
17 Mr. Swearengin before that letter was
18 written on February 7th?

19 A. Sporadic. Sporadically.

20 Q. When -- and you -- you saw a
21 copy of the letter Mr. Swearengin had
22 written to Ken Green, Exhibit Number 2?

23 A. Yes.

FREEDOM COURT REPORTING

122

1 Q. When you saw that letter,
2 what did you do?

3 A. I -- I arranged an
4 appointment with Mr. Swearengin as soon as
5 possible with the intention of doing
6 everything I could to preserve Mr. Scott
7 in his business operation in the Gordon
8 Persons Building.

9 Q. And when did that meeting
10 with Mr. Swearengin take place?

11 A. It took place on February
12 9th, 2005.

13 Q. So you got a letter on
14 February 7th that asked for the Scotts to
15 be removed, and as soon as possible you
16 set up a meeting with Mr. Swearengin?

17 A. Yes. Mr. Swearengin was
18 returning from the death of his father.
19 And upon his first day back at work, as I
20 understood it, February 9th, we did have
21 this meeting conference with
22 Mr. Swearengin.

23 Q. And what happened at that

FREEDOM COURT REPORTING

1 meeting?

123

2 A. Well, at that meeting
3 Mr. Swearengin reiterated what is said in
4 the letter in the exhibit. He said that
5 he had discussed this with his supervisor
6 and that he wanted the Scotts removed from
7 the building. He wanted to know could
8 they be relocated. And I said that
9 that's -- that's not possible. In the
10 system, there is -- this is the top of the
11 hill. This is the ultimate location on
12 State property. Relocation is highly
13 unlikely for the Scotts.

14 Q. And did you say things to
15 Mr. Swearengin about the situation at that
16 meeting?

17 A. Well, yes.

18 Q. And what did you tell him?

19 A. Well, I said to him that it
20 would be devastating to the blind vendor
21 if the blind vendor were not allowed to
22 continue his business operation. And the
23 growth that's derived from that building

FREEDOM COURT REPORTING

124

1 and is on State property and it's one of
2 the best, if not the best in the state.
3 And Mr. Scott had had a long, successful
4 career with the program. And I was
5 generally speaking, exploring -- exploring
6 avenues in order to be able to maintain
7 Mr. Scott's business presence at the
8 building.

9 Q. Avenues in order for him to
10 maintain his business operation there.
11 What was talked about when you say avenues
12 in order to maintain his business
13 operation there?

14 A. Well, what was talked about
15 was in some detail the issue of the -- the
16 card, the swipe card I think it has been
17 called. And we -- we said and believed
18 that we could -- whatever was perceived to
19 be not going well with customer refunds,
20 we proposed that we could improve that in
21 cooperation with Mr. Scott. And we also
22 -- we talked about the relocation of a
23 machine. I had had some experience there

FREEDOM COURT REPORTING

125

1 in the late '80's and the early '90's at
2 the building as a program representative,
3 and so I'm familiar with the layout of the
4 building. And we had some discussion
5 about the movement of a machine that I
6 quite frankly was never able to get moved
7 from the specific spot, the cafeteria that
8 was spoken about this morning. I was not
9 able to convince management to move that
10 machine in behalf of my blind vendor, my
11 consumer pre Mr. Scott.

12 Q. So you talked about the
13 movement of the snack machine from the
14 cafeteria area to another area. You
15 talked about the swipe card. What was
16 said at that meeting about the swipe card
17 access?

18 A. Mr. Swearengin said to us --
19 actually Perry Hopper and myself were
20 there in Mr. Swearengin's office -- was
21 that he was required by State statute to
22 secure certain records for the Department
23 of Revenue and that he was going to do

FREEDOM COURT REPORTING

126

1 that and that -- he said the Scotts had
2 been asked to sign a card out as all other
3 contractors are asked to check the card
4 out while they're servicing the building
5 and check it back in. He said he was --
6 he could not issue a permanent card to
7 Mr. Scott.

8 Q. Did y'all come to a
9 conclusion or a proposal about changing
10 Mr. Swearengin's mind to get him off this
11 request that Mr. Scott not be allowed back
12 in the Gordon Persons Building?

13 A. Well, yes, we did.

14 Q. How did that come about?

15 A. It came about in that as we
16 went through the options, that we were
17 best able to manifest and the testimony of
18 Mr. Swearengin was that the -- the main
19 dissatisfaction, for lack of a better way
20 of saying it, was Ms. Scott and her
21 relationship with business personnel and
22 customers. As we -- we said at the end,
23 Can Mr. Scott maintain his business

FREEDOM COURT REPORTING

127

1 operation here. We said, Can he continue
2 with a different employee.

3 Q. And what was the outcome of
4 that discussion?

5 A. Mr. Swearengin accepted --
6 accepted our suggestion, our -- our effort
7 to maintain the operation for the blind
8 vendor.

9 Q. All right. Subsequent to
10 that meeting, correspondence was prepared
11 to inform Mr. Scott about the conditions
12 that would be allowing him to continue his
13 business operation?

14 A. Yes.

15 Q. Sent to Mr. Scott and to
16 Mr. Swearengin. I believe they're Exhibit
17 3 and 4 in the exhibit notebook.
18 Basically the same letter, one to
19 Swearengin and one to Mr. Scott setting
20 forth the outcome of that meeting?

21 A. Yes. Yes, sir.

22 Q. At that point in time, if
23 Mr. Scott had complied with the conditions

FREEDOM COURT REPORTING

1 of that letter, he would have been allowed
2 to continue to operate his business at the
3 Gordon Persons Building; is that correct?

4 A. Yes.

5 Q. Did he? Did he comply with
6 the conditions outlined in Exhibits --

7 A. No.

8 Q. -- Exhibit Number 3 that was
9 sent to him?

10 A. No, sir.

11 Q. He didn't obtain a new
12 assistant?

13 A. No, sir.

14 Q. Didn't service the machines?

15 A. Not -- not to my knowledge.

16 And I did personally observe the machines
17 from time to time. They appeared to not
18 be serviced for a lengthy period of time.

19 Q. All right. February 14th,
20 you got a letter, Exhibit Number 5, in
21 which Mr. Scott requested an
22 administrative review. Did you take any
23 action based upon his request for an

FREEDOM COURT REPORTING

129

1 administrative review?

2 A. Yes.

3 Q. What did you do?

4 A. I contacted individuals via
5 the general rules direction. I contacted
6 a unit supervisor, a party that had not
7 been involved with any of the events
8 during this incident.

9 Q. Who was that?

10 A. Manny Russo.

11 Q. And that's someone that works
12 for the Department?

13 A. Yes, sir. He's a unit
14 supervisor in Mobile.

15 Q. In Mobile?

16 A. Uh-huh.

17 Q. Did not have any prior
18 dealings with Mr. Scott?

19 A. No.

20 Q. And to your knowledge, what
21 did Mr. Russo do?

22 A. Mr. Russo contacted Mr. Scott
23 and scheduled an administrative review.

FREEDOM COURT REPORTING

130

1 Q. Now, at that administrative
2 review, employees who had not been
3 involved in any of the decisions to --
4 involving his facility to write him a
5 letter stating certain conditions that
6 would allow him to continue to operate his
7 business could have been presented
8 information at that administrative review
9 and made a decision as to the Department's
10 position; is that correct?

11 A. Yes.

12 Q. Did you correspond this
13 Exhibit 6, did you correspond to Mr. Scott
14 after he received -- you received his
15 letter asking for an administrative
16 review?

17 A. I did correspond with
18 Mr. Scott around -- around February 22nd.

19 Q. No. It was before then.
20 Exhibit 6 is a letter dated February 14th.
21 I think it -- I think it's the way I asked
22 you the question. It was on the same day
23 you received that letter that he requested

FREEDOM COURT REPORTING

131

1 the administrative review and you wrote
2 Mr. Scott a letter; is that correct?

3 A. Yes, sir. That is correct.

4 Q. And what was -- what was your
5 purpose in writing Mr. Scott a letter on
6 February 14th? What were you trying to
7 do?

8 A. What I was trying to do was
9 restore service to the building to the
10 eighteen hundred or so State servants that
11 work in that building. They were without
12 snack service.

13 Q. And was there any intent to
14 discriminate or violate Mr. Scott's
15 constitutional rights by writing him a
16 letter asking him to continue to service
17 his machines?

18 A. Absolutely not.

19 Q. Now, there was subsequent
20 correspondence you were about to tell me,
21 Ray, on February 22nd. What was that
22 letter about? It's Exhibit 8.

23 A. On I believe February 22nd

FREEDOM COURT REPORTING

132

1 was the letter where upon several
2 observations that product was not being
3 replenished in the building, approximately
4 twenty snack service areas. I wrote
5 Mr. Scott and pleaded with him to restore
6 service and come back to work and said to
7 him, If you do not, if you do not resume
8 the provision of service, I will have no
9 other choice than to remove you from the
10 facility.

11 Q. Right. On February 22nd, you
12 wrote to him and set a removal date, an
13 inventory schedule?

14 A. Yes, I did.

15 Q. For the next day, the 23rd?

16 A. The 24th I scheduled.

17 Thursday morning, the 24th.

18 Q. At ten a.m.?

19 A. Yes, sir.

20 Q. Explaining to him that he was
21 going to be removed from that facility.
22 Now, why was he going to be removed from
23 that facility?

FREEDOM COURT REPORTING

133

1 A. For failure to meet the terms
2 of the agreement for operation of a
3 vending facility.

4 Q. Exhibit 1?

5 A. Yes.

6 Q. The agreement he signed back
7 in 1998?

8 A. Yes, sir.

9 Q. He wasn't servicing the
10 machines from February 7th to
11 approximately February 22nd when you wrote
12 him?

13 A. And as I recollect testimony
14 from earlier this morning, I thought I
15 heard March 2nd stated as the date that
16 service was resumed.

17 Q. Did that inventory and that
18 removal that you scheduled for ten a.m. on
19 February 24th ever take place?

20 A. Absolutely not.

21 Q. Why didn't it?

22 A. It did not take place in that
23 a dialogue with the Department of Finance

FREEDOM COURT REPORTING

134

1 and Mr. Scott and BEP, considerable
2 dialogue with BEP, and then as I
3 understand it from Mr. Searcy Rushing at
4 Finance dialogue with Mr. and Ms. Scott
5 took place and they reached an agreement
6 on terms for his return to the building.

7 HEARING OFFICER: Who was that?

8 THE WITNESS: Searcy Rushing.

9 HEARING OFFICER: And who was
10 present? I mean, who all reached
11 that agreement?

12 THE WITNESS: The agreement
13 between Mr. Scott and Finance was
14 reached between those two,
15 Mr. Rushing and Mr. Scott, Ms. Scott.

16 Q. Now, the Finance Department
17 owns or operates the Gordon Persons
18 Building, a State of Alabama office
19 building; is that correct?

20 A. Yes, sir.

21 Q. The Alabama Department of
22 Rehabilitation Services Business
23 Enterprise Program does not own that land

FREEDOM COURT REPORTING

135

1 or building that's known as the Gordon
2 Persons Building?

3 A. No.

4 Q. Is there anything you can do
5 to Buddy Swearengin, the building manager
6 at the Gordon Persons Building, if he says
7 to you I don't want -- I'm not going to
8 allow a particular person to come and do
9 business at this building? Is there
10 anything you can do to him?

11 A. No. I have absolutely no
12 organizational authority in regard to
13 individuals that work for the Department
14 of Finance.

15 Q. Who had the authority, to
16 your knowledge, to make decisions about
17 access to the Gordon Persons Building?

18 A. Buddy Swearengin.

19 Q. When you learned that some
20 agreement had been reached between Searcy
21 Rushing with the Finance Department -- I
22 assume he's some sort of supervisor of
23 Mr. Swearengin -- that the Scotts were

FREEDOM COURT REPORTING

1 going to return to the facility, did he
2 take any other action to remove them or
3 take any action against Mr. Scott's
4 license a blind vendor?

5 A. Absolutely not. I was quite
6 pleased that his return had been assured.

7 Q. And you have been named as a
8 defendant, to your knowledge, in
9 Mr. Scott's lawsuit seeking a million
10 dollars, your incarceration for six months
11 and removal from your job, right, Ray?

12 A. Yes.

13 MR. SIMPSON: That's all the
14 questions I have for Mr. Dennis.

15 HEARING OFFICER: Let's see. I
16 guess we'll ask Ms. Fleming if she
17 has any questions.

18 MS. FLEMING: NO questions.

19 HEARING OFFICER: Now we'll go
20 to Mr. Scott and see if Mr. Scott has
21 any questions.

22 MR. SCOTT: I can make some
23 statements here?

www.freedomreporting.com

1-877-373-3660

FREEDOM COURT REPORTING

137
1 HEARING OFFICER: No. No. This
2 is not the time to make any
3 statements. This is the time to ask
4 him questions about his testimony.

5 MR. SCOTT: No questions.

6 HEARING OFFICER: All right.

7 Next witness.

8 MR. SIMPSON: Okay.

9 HEARING OFFICER: Would you
10 raise your right hand and be sworn,
11 please.

12 KEN GREEN

13 The witness, having been first
14 duly sworn or affirmed to speak the truth,
15 the whole truth, and nothing but the
16 truth, testified as follows:

17 DIRECT EXAMINATION

18 BY MR. SIMPSON:

19 Q. Tell us your name, please.

20 A. Ken Green.

21 Q. And what do you do for a
22 living, Mr. Green?

23 A. I'm the Business Enterprise

FREEDOM COURT REPORTING

138

1 Program rep for the Montgomery East area.

2 Q. And what does a Business
3 Enterprise Program rep for the Montgomery
4 East area do?

5 A. Basically, when -- when
6 someone who is legally blind becomes a
7 manager, they bid on locations. Once they
8 get that location, it's the
9 representative's job to assist them in
10 figuring out all the different aspects of
11 the -- of the particular business that
12 they've bid on. In this case, if Calvin
13 had never been there before, we would
14 bring him in and show him all the
15 different locations of the machines, start
16 him out with a beginning income which
17 would stock all of his machines plus a --
18 usually almost an extra set of snacks that
19 would go in all of those machines. And
20 then from then on, you work with the blind
21 manager to make sure that everything runs
22 smoothly and you work with the different
23 building managers and what we call

FREEDOM COURT REPORTING

1 customers of the building to ensure that
2 everyone stays happy and that it becomes a
3 profitable business.

4 Q. Does your job also entail
5 keeping up with and producing and
6 obtaining signatures on a bunch of
7 different types of paperwork?

8 A. Yes.

13 A. Yes.

14 Q. Do you maintain those types
15 of documents in your files?

16 A. Yes.

17 Q. All right. Back in 1998
18 after he'd been there for a few years, the
19 Department revised that agreement to
20 operate a vending facility. Do you
21 recall --

22 A. Yes.

23 Q. -- obtaining -- giving --

FREEDOM COURT REPORTING

1 giving a copy of the agreement to operate
2 a vending facility to Mr. Scott and
3 obtaining a copy signed by his wife?

4 A. Yes.

5 Q. And you've maintained that in
6 your files?

7 A. Yes, sir.

8 Q. All right. So you've seen
9 Exhibit Number 1, the agreement to operate
10 a vending facility that was signed back in
11 1998?

12 A. Yes.

13 Q. That sets forth what
14 Mr. Scott is supposed to do, right?

15 A. Right.

16 Q. Now, a problem arose in early
17 January of 2005 in connection with access
18 to one of the areas of the Gordon Persons
19 Building. Explain to the hearing officer
20 everything you know about that problem,
21 the card and what happened.

22 A. Okay. In all the building
23 there's one place at this time, I believe,

140

FREEDOM COURT REPORTING

141

1 that is inaccessible through regular means
2 without a card. All the other places you
3 can go up and down elevators to get to all
4 the vending machines. But in one
5 particular spot, you have to have a card
6 to get in the door or knock on -- knock on
7 the door and have someone let you in. The
8 Scotts requested a card because it will
9 make -- it does make it easier to go all
10 the way around each floor, you know, and
11 hit all the machines sometimes to stock
12 them and service them and so forth.

13 So I went to Swearengin and
14 requested a key, and he gave me the key.
15 And then I turned and gave it to the
16 Scotts. Thereafter, I believe
17 Mr. Swearengin couldn't locate the key and
18 so he turned the key off. He probably had
19 forgotten that he had given it to me and I
20 had given it to Calvin.

21 Q. You don't know that for sure?

22 A. I don't know, no.

23 Q. But for some reason the key

FREEDOM COURT REPORTING

142

1 that you had obtained and given to the
2 Scotts --

3 A. Was turned off.

4 Q. -- was used for several
5 months?

6 A. Yes. Yes. Was turned off.

7 Q. Now, Mr. and Ms. Scott had
8 been operating that facility, though --
9 Mr. Scott's been the blind vendor for
10 several years. It was only several months
11 that they had a key?

12 A. As far as I know. Now, you
13 have to remember different -- different
14 agencies occupy the Gordon Persons
15 Building. And so a hall one month may be
16 cut on and it may be cut off the next
17 month or vice versa due to different
18 agencies occupying, you know, needing
19 security and not needing security.

20 Q. So the problem of access to
21 one particular machine might have arisen,
22 but there wasn't an access problem before
23 is what you're saying?

FREEDOM COURT REPORTING

143

1 A. Could be. Could be. And
2 really, having the key makes it easy on
3 many more machines because you can
4 therefore walk through let's say a wing of
5 the building to get to some more machines
6 rather than having to go down an elevator,
7 go across on another floor of that same
8 length and go back down the elevator and
9 coming out. So it just makes it easier.

10 Q. Okay. For whatever reason --
11 you're not absolutely certain -- the key
12 was turned off?

13 A. Right. Right.

14 Q. And what happened then?

15 A. After the key was turned off,
16 I was requested to get a key. And, you
17 know, to get the key back. And when I
18 asked for the key back, I was told that it
19 would have to be checked out and checked
20 in.

21 Q. Who did you ask?

22 A. Mr. Swearengin.

23 Q. And who told you it would

FREEDOM COURT REPORTING

144

1 have to be checked out and checked in?

2 A. Buddy.

3 Q. Mr. Swearengin?

4 A. Right. Swearengin.

5 Q. And did you relay that

6 information to the Scotts?

7 A. I did. I think so.

8 Q. And what happened then?

9 A. They requested the key on a
10 permanent basis.

11 Q. And --

12 A. It was denied.

13 Q. Mr. Swearengin denied it?

14 A. Right.

15 Q. He wouldn't allow the key to
16 be issued on a permanent basis?

17 A. Right.

18 Q. He's the one that wanted it
19 to be checked out?

20 A. Right.

21 Q. Okay.

22 A. And then --

23 Q. And then what happened?

FREEDOM COURT REPORTING

145

1 A. And then after that through
2 different -- you know, we notified Calvin.
3 Well, no. Let's see. After that I guess
4 the next thing that happened was we ended
5 up getting a letter saying that Ms. Scott
6 couldn't work in the building. Or no.
7 Yeah. I think it was that Ms. Scott
8 couldn't work in the building any longer.

9 Q. Do you need to look at your
10 exhibits?

11 A. Okay.

12 Q. It's Exhibit Number 2.

13 A. You grabbed me so fast I left
14 it on my desk. Okay.

15 Q. See if you can refresh your
16 memory of that letter you received from
17 Mr. Swearengin by looking at Exhibit
18 Number 2.

19 A. Okay. Yeah.

20 Q. Now, what was your
21 understanding?

22 A. You're right. You're
23 correct.

FREEDOM COURT REPORTING

146

1 Q. What was he requesting?

2 A. We had several conversations,
3 you know, trying to fix this problem. But
4 my main objective is just to fix the
5 problem and let everyone go on with
6 their -- with their, you know, work
7 environment. So he sent me this letter,
8 and it basically said I've had problems
9 with the Scotts. I want them out of my
10 building. I don't think it's a safe
11 environment. And that's when I took this
12 letter to Ray Perry, my supervisor.

13 Q. Ray who?

14 A. Ray Dennis and Perry Hopper.
15 And said how can we fix this, you know.

16 Q. And did you have any further
17 involvement with meetings with
18 Mr. Swearengin or meetings with other
19 Finance Department officials --

20 A. No, not --

21 Q. -- or people from the
22 building?

23 A. Not directly. No.

FREEDOM COURT REPORTING

147

1 Q. Okay. After you received the
2 letter, Exhibit Number 2, you turned the
3 problem over to Mr. Dennis and Mr. Hopper?

4 A. Right.

5 Q. Okay. You're still the
6 Scott's representative?

7 A. Yes. Yes.

8 Q. And to your understanding
9 now, do they have a card key that allows
10 them access?

11 A. Yes.

12 Q. That makes their job easier
13 in the building?

14 A. Once -- once it was -- once,
15 I believe, Mr. Swearengin was told to give
16 them a key, he called me and gave me a
17 key. I was -- I had to sign it out. I
18 had to sign the key out in my name with
19 the understanding that it was going to the
20 Scotts permanently. And so I did that.
21 And the other two items happened on the
22 same date. They got their painted parking
23 place, and I was told they moved the

FREEDOM COURT REPORTING

148

1 machine.

2 HEARING OFFICER: What date was
3 this?

4 THE WITNESS: That I'm not sure
5 of. I could get a -- I could
6 probably get the date that was
7 signed. It was all done shortly
8 there --

9 Q. It wasn't a long period of
10 time?

11 A. I don't think so.

12 Q. Was there a lack of service
13 for about a two week period --

14 A. Yes.

15 Q. -- in February, late
16 February, the end of February and the
17 first few days of March?

18 A. The Scotts keep their
19 machines pretty full. So when they left,
20 it took a while for it to run out because
21 once -- once the favorites leave of what
22 you're buying, you're still going to buy
23 something. And so eventually all the

FREEDOM COURT REPORTING

149

1 stuff that people really didn't buy that
2 much went empty, and, you know, we've got
3 pictures. Some machines never did go
4 empty.

5 Q. You physically went to the
6 Gordon Persons Building to observe what
7 was happening with the machines during
8 this period after Mr. Scott had been
9 informed that he couldn't have his wife
10 accompany him to the Gordon Persons
11 Building?

12 A. Right. Repeatedly. I had to
13 make sure that the machines -- you know,
14 that we didn't run out of product. So
15 eventually I took my camera and took
16 pictures of every machine.

17 Q. And there were -- there was
18 low volume of snacks in those machines,
19 but --

20 A. Very few were empty.

21 Q. Very few were empty. So
22 items that were for sale were sold, and
23 like you said, some of the items that were

FREEDOM COURT REPORTING

1 not favorites that sell out quickly were
2 sold?

3 A. Right.

4 Q. Did anybody else get access
5 to those machines during that period to
6 restock them?

7 A. No. I remember reading
8 somewhere I think in this paperwork that
9 we thought they had -- somebody was
10 working machines for them. And they
11 notified us that no, nobody had access to
12 those machines. So we figured out it was
13 just somebody had seen a dolly being
14 pushed around with boxes on it, which
15 could easily be a mail guy or somebody
16 just moving computers or something that
17 had been mistaken for the vendor.

18 Q. You work with other blind
19 vendors that are assigned to State
20 buildings, private locations, federal
21 properties?

22 A. (Witness nodding head in the
23 affirmative.)